IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISICTION
CRIMINAL WRIT PETITION NO. 64 OF 2005

Mr. Nishant Rajkumar Rajgarhia .... Petitioner.

V/s

Mr. Umashankar Rajgore & Ors. .... Respondents.

ALONG WITH
CRIMINAL WRIT PETITION NO. 65 OF 2005
ALONG WITH
CRIMINAL WRIT PETITION NO. 66 OF 2005
ALONGWITH
CRIMINAL WRIT PETITION NO. 67 OF 2005
ALONG WITH
CRIMINAL WRIT PETITION NO. 68 OF 2005

Mr. Nishant Rajkumar Rajgarhia ... Petitioner.

V/s

M/s. Ajwa Fashions Ltd. & Ors. ... Respondents.

ALONGWITH
CRIMINAL WRIT PETITION NO. 89 OF 2005

Mr. Rajkumar Rajgarhia .... Petitioner.

V/s

Mr. Nikhil & Ors. .... Respondents.

ALONGWITH
CRIMINAL WRIT PETITION NO.90 OF 2005

Prashant Rajgarhia .....Petitioner.
V/s
Mr. Shyam Sunder Agarwal & Ors. ....Respondents.

Ms Seema Gupta i/b Mr. A.M. Saraogi for the petitioner in W.P. Nos. 64 of 2005 to 67 of 2005 and in W.P. Nos. 68/05, 89/2005 and 90 of 2005.

Mrs. M.M. Deshmukh, APP for the State in W.P. Nos. 64/2005 to 67/2005.

Mr. A.S. Shitole, APP for the State in W.P. Nos. 68/2005, 89/2005 and 90/2005.

Mr. P.P. Tendulkar for respondent No.2 in all the above Writ Petitions.

CORAM: V.M. KANADE, J.
DATE : 4th August, 2006

P.C.

1. Petitioner is challenging the order passed by the Additional Chief Metropolitan Magistrate, 24th Court, Borivali, Mumbai. By the said order, the Magistrate, after going through the complaint, came to the conclusion that the complaint which was filed against the petitioner under section 406 of the Indian Penal Code was not maintainable and, therefore, dismissed the complaint under section 203 of

the Criminal Procedure Code.

2. Brief facts are that the accused had issued cheques to the complainant for total sum of Rs 5,56,250/-. The cheques were presented in the Bank but were dishonoured. A demand notice was issued by the complainant's advocate which was duly served. However, the accused did not pay the amount of the dishonoured cheques. The petitioner filed complaint under section 138 of the Negotiable Instruments Act and process has been issued in the said complaint. Thereafter, second complaint was filed by the petitioner under section 406 read with section 34 of the Indian Penal Code. In the said complaint, it was prayed that the Magistrate should direct the Police to investigate into the case under section 156(3) of the Criminal

Procedure Code. The learned Magistrate came to the conclusion that no case has been made out for directing investigation under section 156(3) and the verification of the complainant was recorded. After going through the verification and the complaint which was filed, the learned Magistrate came to the conclusion that the allegations, if

any, which were made in the complaint were not sufficient to attract the provisions of section 406. Under these circumstances, the complaint was dismissed.

3. In my view, there is no illegality or infirmity in the said order. There is no reason to interfere with the reasoned order which is passed by the learned Magistrate. Hence, Writ Petitions are dismissed.

(V.M. KANADE, J.)